IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF PUERTO RICO

In re:)
)   No. 10-03127-SEK
SAMUEL NEGRON AGOSTO,   )
)   Chapter 13
                Debtor.   )

**UNITED STATES' OBJECTION TO CONFIRMATION OF THE
DEBTOR'S PLAN DATED APRIL 20, 2011**

The United States objects to confirmation of the debtor's plan dated April 20,

2011, because (1) the plan fails to provide for the Service's secured claim and (2) the

plan is infeasible. In support of this motion, the United States avers as follows:

Factual Background

1. The debtor filed an amended plan on April 20, 2011 with a plan base of

$90,000, proposing to pay the Service's secured claim outside the plan, after completion

of the plan period. (Docket No. 51.)

2. The Internal Revenue Service filed an amended proof of claim on September

24, 2010 consisting of secured tax claims in the amount of $56,252, priority tax claims in

the amount of $39,630, and general unsecured tax claims in the amount of $23,182.

(Gov. Ex. A.) These claims relate to the debtor's unpaid federal income, employment,

and unemployment tax liabilities for tax years 2003 through 2010.

Argument

I. The Debtor's Plan Fails to Provide for the Service's Secured Claim

3. The debtor's plan fails to provide for the present value of the Service's secured

claim as required under 11 U.S.C. § 1325(a)(5) and cannot be confirmed.

4. Under section 1325(a)(5), a secured claim must be treated in one of the following three ways for the plan to be confirmed; (1) the secured creditor accepts the plan; (2) the plan provides for distribution in the amount of the present value of the secured claim; or (3) the debtor surrenders the property securing the claim to the creditor. 11U.S.C. § 1325(a)(5).

5. The debtor's plan proposes to make no distributions for the Service's secured claim, and instead proposes to pay the Service's secured claim outside the plan when the plan period is completed.

6. Therefore, the plan cannot be confirmed because it fails to provide for distribution of the present value of the Service's secured claim.

II. The Debtor's Plan is Infeasible

7. In order to be confirmed, a plan must be feasible, which requires the debtor to be able to make all payments under the plan and comply with all plan provisions. 11 U.S.C. § 1325(a)(6).

8. The plan proposes to pay secured arrears in the amount of $12,941, secured claims in the amount of $2,793, attorney's fees of $1,824 as a priority claim, and 100% of unsecured claims in the amount of $7,090. (Docket No. 28.)

9. The plan base of $90,000 is insufficient to provide for the $120,530 in secured and priority claims ($56,252 for the Service's secured claim, $39,630 for the Service's priority claim, $12,941 in secured arrears, $2,793 in secured claims, $1,824 in attorney's fees, and $7,090 in unsecured claims). (*See* Gov. Ex. A; Docket No. 51.) Therefore, the

plan fails the feasibility requirement under 11 U.S.C. § 1325(a)(6), because the debtor

will not be able to make all payments required to be made under the plan.

WHEREFORE, the United States respectfully requests the Court deny

confirmation of the debtor's plan dated April 20, 2011.

Pursuant to L.R. 9013-2(a), the United States is filing no memorandum and will

rely solely upon this objection.

Dated: April 21, 2011

ROSA RODRIGUEZ-VELEZ
United States Attorney

JOHN A. DiCICCO
Principal Deputy Assistant Attorney General

/s/ *Katherine M. Walker*
KATHERINE M. WALKER
PR Bar # G00908
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 227
Washington, D.C. 20044
Telephone: (202) 307-6528
Facsimile: (202) 514-6866
Email: Katherine.M.Walker@usdoj.gov

CERTIFICATE OF SERVICE

I certify the foregoing UNITED STATES' OBJECTION TO CONFIRMATION was

served by ECF on April 21, 2011, on the following:

Jose Jimenez Quinones
Jimenez Quinones Law Office, PSC
268 Ave Ponce de Leon, Suite 1118
San Juan, Puerto Rico 00918-2007
Counsel for the Debtor

Alejandro Oliveras Rivera
P.O. Box 9024062
San Juan, Puerto Rico 00902-4062
Chapter 13 Trustee

                                        /s/ *Katherine M. Walker*
                                        KATHERINE M. WALKER